

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

JAMES MCDONALD,

Plaintiff,

v.

ONEWEST BANK, FSB, NORTHWEST
TRUSTEE SERVICES INC., MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS
INC.,

Defendants.

No. C10-1952-RSL

DECLARATION IN SUPPORT OF
RESPONSE & OBJECTION TO
DEFENDANTS' MOTION TO
SUPPLEMENT

Noting Date: December 14, 2012

The undersigned counsel, declares under penalty of perjury under Washington state laws that the statements made herein are true and correct to the best of her personal knowledge and that she's making them in support of Plaintiff's Objection to Defendants' Motion to Supplement their motion for summary judgment:

1. On November 9, 2012, at 4:57 p.m., Mr. Joe Mueller, who was allowed to practice *pro hac vice* in this case *the day before* (Dkt. 200), sent me an email in which he wrote: **"I just want to let you know our clients have recently come across two documents which we think are arguably responsive to your discovery requests."** On Saturday, Mr. Mueller sent, via email, a heavily redacted document and a stipulation for protective order of another document that I have not been allowed to view.

COUNSEL'S DECLARATION IN
SUPPORT OF PLAINTIFF'S
RESPONSE & OBJECTION TO
MOTION TO SUPPLEMENT

HA THU DAO, ESQ.

787 Maynard Ave S, Seattle WA 98104
727-269-9334/Fax 727-264-2447
hadaoid@gmail.com
youremylawyer@gmail.com

2. Having received Mr. Mueller's emails over the weekend, responded to him on the following Monday and objected to his attempt to introduce documents produced beyond the discovery cutoff. I had a follow up telephone conversation with Mr. Mueller about what he is trying to accomplish and reiterated my objection. Mr. Mueller was of the position that he simply wanted to produce the documents, not to have them admitted. He further conditioned production of these documents on my signing a stipulation to protective order.

3. Mr. Mueller followed up with another email on November 13, 2012, where he unilaterally interpreted my unwillingness to stipulate to a protective order to be that I did not want the document to be produced. Mr. Mueller advised that regarding the document he "already produced, entitled '3270 Explorer: Consolidated Notes Log,'" he does not know yet whether the defendants will rely on that document, but that they "may."

4. I cannot agree to a protective order of a document I was not given to review. I believe that the lack of agreement to stipulate, however, does not dispense the Defendants' ongoing obligation to comply with the discovery order. Mr. Mueller apparently has taken upon himself to decide whether his clients should comply with the court's orders concerning discovery. As of the writing of this Declaration, Mr. Mueller has yet to produce either the unredacted version of the Consolidated Notes Log, or the document he sought our stipulation for.

DATED this 10th day of December, 2012.

/s/ Ha Thu Dao

Ha Thu Dao, WSBA 21793
787 Maynard Ave S, Seattle, WA 98104
(727) 269-9334/Fax 727-264-2447
hadaojd@gmail.com
Attorney for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify on December 10, 2012, the foregoing document is being served via

___First Class Mail ___Priority Mail, ___Messenger Service ___Facsimile ___Electronic

Mail___X___ECF, upon the following parties:

Joe Mueller, Esq., Heidi Buck Morrison, Esq.

Attorney for Defendants

JMueller@larkinsvacura.com

hbuckmorrison@rcolegal.com

/s/ Ha Thu Dao

COUNSEL'S DECLARATION IN
SUPPORT OF PLAINTIFF'S
RESPONSE & OBJECTION TO
MOTION TO SUPPLEMENT

HA THU DAO, ESQ.

787 Maynard Ave S, Seattle WA 98104
727-269-9334/Fax 727-264-2447
hadaoid@gmail.com
youremylawyer@gmail.com